

## **EXHIBIT I**

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

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HIGHWAY MATERIALS, INC. : CIVIL ACTION  
-vs- : NO. 02-3212  
WHITEMARSH TOWNSHIP, et al. :

July 18, 2003  
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Deposition of WILLIAM KRAMER, held in the  
Law Offices of BALLARD SPAHR ANDREWS & INGERSOLL, LLP,  
located at 1735 Market Street, 51st Floor, Philadelphia,  
Pennsylvania, commencing approximately at 9:35 a.m. on  
the above date, before Holly J. Cross, a Registered  
Professional Reporter and Notary Public for the State of  
Pennsylvania.

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THE WITNESS

WILLIAM KRAMER

By Mr. Einhorn

**COPY**

EXHIBITS

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APPEARANCES:

BALLARD SPAHR ANDREWS & INGERSOLL, LLP  
BY: WALTER M. EINHORN, JR., ESQUIRE  
1735 Market Street, 51st Floor  
Philadelphia, PA 19103  
Counsel for Plaintiff

DEASEY, MAHONEY & BENDER  
BY: HARRY G. MAHONEY, ESQUIRE  
1800 John F. Kennedy Boulevard  
Suite 1300  
Philadelphia, PA 19103  
Counsel for Defendants

ALSO PRESENT:

Kristine Maciolek, Esquire

---  
WILLIAM KRAMER, having been duly sworn, was  
examined and testified as follows:  
---

MR. MAHONEY: For the record, I'd like  
the witness to read and sign the transcript.

EXAMINATION

BY MR. EINHORN:

Q Good morning, Mr. Kramer.

A Good morning.

Q Mr. Kramer, it's true, isn't it, that in July  
of 2001 some of the neighbors of the DePaul quarry sites  
presented the board of supervisors with a petition to  
rezone the properties?

A I believe so.

Q You don't remember that?

A Oh, I remember it. I mean, I don't know the  
dates; but yes, they did.

MR. EINHORN: Hank, do you have P-1  
there?

MR. MAHONEY: Sure.

BY MR. EINHORN:

Q Mr. Kramer, we've had many depositions in this  
matter already; and in the course of those depositions,

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1 BY MR. EINHORN:  
 2 Q Can you answer the question, sir?  
 3 A No. It's been answered.  
 4 Q You're not going to answer my question?  
 5 A I answered your question.  
 6 Q Is this a sensitive point for you, sir, this  
 7 flip flop --  
 8 A No, you are a sensitive point.  
 9 MR. MAHONEY: Excuse me, excuse me.  
 10 THE WITNESS: No, you are a sensitive  
 11 point, sir.  
 12 MR. MAHONEY: Excuse me.  
 13 THE WITNESS: You're twisting every  
 14 freaking thing around.  
 15 MR. EINHORN: Did you get that?  
 16 MR. MAHONEY: Let's have a break.  
 17 (Recess taken.)  
 18 BY MR. EINHORN:  
 19 Q Did you have any discussions with anyone about  
 20 the placement of this agenda item on September 20th?  
 21 A I don't recall.  
 22 Q Do you recall knowing before the meeting that  
 23 this agenda item was going to be on the list for that  
 24 night?

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1 A Only when I got the packet. That's all I can  
 2 recall.  
 3 Q What was your reaction when you got the packet?  
 4 A Well, I couldn't make the meeting, so I  
 5 probably just put it aside.  
 6 Q But you remember getting the packet with the  
 7 agenda item on there?  
 8 A I would assume so that I got the packet  
 9 delivered, yes. I just don't know where I was.  
 10 Q You don't recall any reaction to that?  
 11 A It's just on the agenda.  
 12 Q But you don't recall yourself having any  
 13 reaction to that agenda item?  
 14 MR. MAHONEY: I think he already  
 15 answered the question.  
 16 THE WITNESS: Yeah. I mean, what  
 17 else --  
 18 BY MR. EINHORN:  
 19 Q If the answer is you don't remember, just say,  
 20 "I don't remember."  
 21 A I don't remember.  
 22 Q Okay. I gather, then, you didn't ask anybody,  
 23 "Why are we putting this on the agenda if we haven't  
 24 hired the land use planner yet?" Did you ever ask that

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1 question of anybody?  
 2 A I don't recall.  
 3 Q Was it a surprise to you that this was on the  
 4 agenda, given the fact that the land use planner hadn't  
 5 been hired yet?  
 6 A No.  
 7 Q Sir, isn't it true that the vote on September  
 8 20th to advertise the ordinance was in response to  
 9 Mr. DePaul filing the plans, the preliminary plans, on  
 10 the property?  
 11 A It might have moved it along, yes; but the  
 12 plans were already filed, so whether we advertised or  
 13 didn't didn't make much sense -- didn't make much  
 14 consequence, it seems, because the plans -- he's filed.  
 15 He's in.  
 16 Q Okay. So the only consequence that the  
 17 rezoning would have would be if the plans were denied;  
 18 correct?  
 19 A If the plans were denied or if he sold the  
 20 property to somebody else or he abandoned the project.  
 21 Q But you understood at the time that the  
 22 rezoning would have no practical effect on the property  
 23 if his plans were eventually approved; correct?  
 24 A Right. I believe even filing his plans -- it's

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1 hard to disapprove the plan as long as it meets all the  
 2 other criteria.  
 3 Q Now, you said that it might have moved it  
 4 along. What do you mean that?  
 5 A Well, basically, each time I saw a submission  
 6 from here it got more aggressive, so the other  
 7 properties -- the other parts of the site hadn't been  
 8 developed, and this is a pretty intense development. So  
 9 at the very best we, at least, would be left with, you  
 10 know, maybe a good balance between the office use and  
 11 triple A residential and the rest of the site.  
 12 Q So, then, it's fair to say --  
 13 A Sites, other sites. I'm sorry.  
 14 Q It's fair to say that the township action in  
 15 rezoning the property, then, was in response, at least  
 16 in part, to the filing of Mr. DePaul's plans?  
 17 MR. MAHONEY: Objection.  
 18 THE WITNESS: Part of the rezoning  
 19 process had been going on for some time.  
 20 BY MR. EINHORN:  
 21 Q But it wasn't until September 20th that you  
 22 actually took the step to advertise the rezoning;  
 23 correct?  
 24 A Right.

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1 Q And my question is: That, in part, was a  
2 response to the filing of Mr. DePaul's plans?  
3 A The zoning process had been going on since  
4 prior to Mr. DePaul's plans. It had been recommended to  
5 rezone. It was a bad zoning. It's just part of the  
6 process.  
7 Q I'm just asking why September 20th.  
8 A I have no idea.  
9 Q So it's your testimony under oath today, sir,  
10 that the filing of the plans did not result -- strike  
11 that.  
12 It's your testimony, if I'm hearing you  
13 correctly, that the vote on September 20th to advertise  
14 the residents' ordinance was, at least in part, a  
15 response to the filing of Mr. DePaul's preliminary plan?  
16 MR. MAHONEY: Objection. He already  
17 testified that it moved it along.  
18 THE WITNESS: It moved it along.  
19 BY MR. EINHORN:  
20 Q So the answer to that is a yes?  
21 A Yes. It moved it along. It is not the  
22 residents' ordinance. It was the township's ordinance,  
23 also.  
24 Q Just so the record is clear, you're agreeing

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1 with me that the scheduling of the vote on September  
2 20th was, at least in part, a response to the filing of  
3 Mr. DePaul's plans?  
4 MR. MAHONEY: Object to the form of the  
5 question. It's been asked and answered repeatedly.  
6 BY MR. EINHORN:  
7 Q Can you answer that yes or no, sir?  
8 A I already answered the question.  
9 Q I didn't hear it. Was it a yes or a no?  
10 A I already answered the question in previous  
11 questions. It's part of a long process of rezoning that  
12 ground. I've already answered the question.  
13 Q Sir, I'm asking you, since I missed it, was it  
14 a yes or a no? Was your answer a yes or a no to the  
15 question?  
16 A Have her read it back.  
17 Q Well, we'll be looking a long time for that yes  
18 or no, sir.  
19 MR. MAHONEY: Excuse me. The witness  
20 has the right to ask for testimony or a question to be  
21 read back.  
22 MR. EINHORN: Mr. Mahoney, you're  
23 absolutely right. Do you think you can find the answer  
24 to that question?

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1 (The record was read by the  
2 reporter.)  
3 BY MR. EINHORN:  
4 Q So the answer is a yes; is that correct?  
5 MR. MAHONEY: Which question?  
6 THE WITNESS: The question has already  
7 been answered. She just read it back.  
8 BY MR. EINHORN:  
9 Q I'm going to try one more time, sir, and then  
10 we can move along, because I don't want to belabor the  
11 point. I'm just asking for a simple yes or no. If you  
12 can't answer it yes or no, just tell me that, too.  
13 Was the vote to advertise on September 20th, at  
14 least in part, a response to the filing of Mr. DePaul's  
15 preliminary plans?  
16 MR. MAHONEY: It's been asked and  
17 answered, but go ahead and answer it.  
18 THE WITNESS: Possibly.  
19 BY MR. EINHORN:  
20 Q What do you mean by "possibly"?  
21 A Jesus Christ --  
22 Q Well, sir, I'm entitled to follow-up on that  
23 answer.  
24 A Look, I already told you earlier, and she read

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1 it back. I said -- you know, she read the darn thing  
2 back; and, instead -- you know, in response, yeah,  
3 partial pressure, yeah, possibly, yes. There's a  
4 pressure of that development on that.  
5 Q Okay.  
6 A Of future developments. Excuse me. His  
7 development had already been submitted. All right? The  
8 zoning is changed for future developments, not the  
9 development he already submitted.  
10 Q Understood. Under the law is what you're  
11 telling me. He has the right to develop under the old  
12 zoning.  
13 A Right.  
14 Q Okay. Now, you've testified about the draft  
15 comprehensive plan on a few occasions in your answers.  
16 A Yes.  
17 Q Are you referring to the June 2001 draft plan?  
18 A I don't have it in front of me; but I assume,  
19 if that's the last draft, that would be correct.  
20 Q Let me show it to you. P-4.  
21 MR. MAHONEY: P-4? Just this page?  
22 MR. EINHORN: I was just going to point  
23 out his name on it, and then ask him a few preliminary  
24 questions.

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1 that work?

2 A I just read them.

3 Q Did it come in your weekly packet?

4 A Yes.

5 Q And the previous --

6 A Yes.

7 Q -- ones came in your weekly packet?

8 A Yes.

9 Q And you reviewed them for accuracy?

10 A Tried to, yeah, speed read them.

11 Q Okay. Did you -- but you had the opportunity

12 to correct the minutes if you chose to?

13 A Yes.

14 Q One more topic, P-40, please, Hank.

15 Sir, this has been marked P-40 to a previous

16 deposition. I forget who it was. I think it was

17 Mr. Zarko, but I'm not sure. Do you recognize that

18 document?

19 A No. I don't think we see this document.

20 Q You don't recall ever seeing that document?

21 A No, no.

22 Q Have you ever seen any checklist that is

23 applicable to preliminary plans in Whitmarsh Township?

24 A I don't recall, no.

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1 MR. EINHORN: All right. Those are all

2 the questions I have.

3 MR. MAHONEY: That's it.

4 (The deposition concluded at

5 approximately 12:45 p.m.)

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WITNESS CERTIFICATION

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3 I hereby acknowledge that I have read the

4 foregoing transcript of my deposition given on

5 July 18, 2003 and that it is a true, correct and

6 complete transcript of the answers given by me to the

7 questions propounded, to the best of my knowledge,

8 recollection and belief, except for the list of

9 corrections, if any, noted on the below Errata Sheet.

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WILLIAM KRAMER

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C E R T I F I C A T I O N

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3 I, Holly J. Cross, a Registered Professional

4 Reporter, do hereby certify that the proceedings,

5 evidence, and objections upon the deposition of

6 WILLIAM KRAMER are contained fully and accurately in the

7 stenographic notes taken by me upon the foregoing matter

8 on July 18, 2003 and that this is a true and correct

9 transcript of same.

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HOLLY J. CROSS

Registered Professional

Reporter

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**EXHIBIT J**

**COPY**

IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF PENNSYLVANIA

A P P E A R A N C E S :

HIGHWAY MATERIALS, INC : CIVIL ACTION

-vs- :

WHITEMARSH TOWNSHIP, et al. NO. 02-3212

March 21, 2003

BALLARD, SPAHR, ANDREWS & INGERSOLL, LLP  
 BY: WALTER M. EINHORN, JR., ESQUIRE  
 1735 Market Street, 51st Floor  
 Philadelphia, PA 19103  
 Counsel for the Plaintiff

DEASEY, MAHONEY & BENDER  
 BY: HARRY G. MAHONEY, ESQUIRE  
 1800 John F. Kennedy, Suite 1300  
 Philadelphia, PA 19103  
 Counsel for the Defendants

Oral deposition of WILLIAM RIMEL, held in the  
 offices of Whitemarsh Township Building, 616 Germantown  
 Pike, Whitemarsh, Pennsylvania 19444, commencing at  
 10:21 a.m. on the above date, before Robin M. Valentini,  
 a Certified Shorthand Reporter.

ALSO PRESENT:  
 BY: MS. KRISTINE MACIOLEK, ESQUIRE  
 JAMES GARRITY, ESQUIRE  
 ROBERT RAQUET

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WILLIAM RIMEL	
By Mr. Einhorn	4

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1 Q. When you say specifically, it leads me to  
2 believe you may have some general recollections of  
3 discussions along those lines.  
4 A. Well, I can't imagine that in an executive  
5 session we didn't say, if we enact this, this is  
6 what's going to happen. If we enact this zoning  
7 ordinance, then these are the ground rules under  
8 which the DePaul organization will have to work. I  
9 can't imagine that that was not mentioned.  
10 Q. Okay. You knew, though, that if the plans  
11 were eventually approved, the September '01 plans  
12 were eventually approved, that your change in the  
13 ordinance, at least for Hole No. 1, would have been  
14 meaningless?  
15 A. That's correct.  
16 Q. So given that you don't recall ever having  
17 any land development plans denied in the Township  
18 since you've been on the Board, wasn't there some  
19 sense in your mind that this rezoning was just a  
20 waste of time with respect to Hole No. 1?  
21 A. I can't say that I thought it was a waste  
22 of time.  
23 Q. Okay. Did you have any thoughts in that  
24 regard?

1 A. Not that I recall.  
2 Q. But you did know that for the zoning to  
3 have any effect on the plans, with respect to Hole  
4 No. 1 –  
5 MR. MAHONEY: Rezoning.  
6 MR. EINHORN: The rezoning. Thank you.  
7 BY MR. EINHORN:  
8 Q. – the rezoning with respect to Hole No.  
9 1, you would have to eventually deny DePaul's plans,  
10 meaning the Board?  
11 MR. MAHONEY: You're saying that's what  
12 his thought process was?  
13 MR. EINHORN: Yes.  
14 A. I knew that if we denied the plan, that  
15 any future plans would have to be considered under  
16 the new zoning.  
17 Q. But you knew for this rezoning to have any  
18 practical effect in the real world, Mr. DePaul's  
19 plans for Hole No. 1 would have to be denied?  
20 MR. MAHONEY: He knew or he knows?  
21 MR. EINHORN: He knew at the time.  
22 A. I knew at the time that that was the case.  
23 Q. You still know that to be the case; true?  
24 A. Yes. That's the law.

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1 Q. I want to talk just for a second about the  
2 KYW property. I actually believe that's zoned heavy  
3 industrial. We talked generally about it.  
4 MR. MAHONEY: Heavy X.  
5 MR. EINHORN: Heavy X; is it?  
6 MR. MAHONEY: Yes.  
7 MR. EINHORN: Okay.  
8 BY MR. EINHORN:  
9 Q. That is part of the Simone study; correct?  
10 A. That is correct.  
11 Q. In fact, I believe in Mr. Simone's  
12 presentations, he's addressed that KYW property in  
13 addition to the DePaul properties; true?  
14 A. As I recall, yes.  
15 Q. Okay. But if I'm also reading your  
16 minutes correctly, the KYW property was not rezoned  
17 in October 2001; correct?  
18 A. That's the way it looks to me. I don't  
19 really recall that we discussed that particular  
20 portion of the property.  
21 Q. Why was there an action to rezone the  
22 DePaul properties before receiving the Simone plans,  
23 and no similar action to rezone the KYW property,  
24 which was also to be subject in the Simone study?

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1 A. I don't recall.  
2 Q. Why did the DePaul properties have to be  
3 rezoned in October '01 instead of just waiting for  
4 the Simone recommendations?  
5 A. Well, it seemed to us – it seemed to us  
6 that it was appropriate to do for that piece of  
7 property.  
8 Q. Okay. I'm now focusing on the timing more  
9 than the actual zoning itself.  
10 Why was there the big rush to do  
11 this?  
12 MR. MAHONEY: Object to the form of  
13 question. That's your characterization.  
14 MR. EINHORN: That's true. It is.  
15 A. Well, I don't think there was a big rush.  
16 Q. Sir, in July of '01, we're talking about a  
17 process. We can go back. We'll look at the study.  
18 The study would take about six months.  
19 A. Yes.  
20 Q. Two months later, we're advertising the  
21 rezoning of the properties.  
22 How would you characterize that time  
23 frame?  
24 A. It's a two month time frame. It's out



1 there for everybody to evaluate and look at.  
2 Q. Sir, is it fair to say that, in your mind,  
3 anyway, that this action on September 20th was a  
4 retaliation for Mr. DePaul filing the plans on  
5 September 10?  
6 A. Absolutely not.  
7 Q. Absolutely not?  
8 A. Absolutely not.  
9 Q. And you can't, sitting here today, give me  
10 a reason why you didn't wait for the Simone study on  
11 these properties?  
12 A. No, I cannot.  
13 MR. EINHORN: Off the record.  
14 (Whereupon, a discussion was held  
15 off the record.)  
16 (Whereupon, a luncheon recess was  
17 taken.)  
18 BY MR. EINHORN:  
19 Q. Mr. Rimel, are there agendas or minutes  
20 that are kept for executive sessions?  
21 A. There is an agenda that comes out in the  
22 packet with the items that will be discussed. No  
23 minutes, to my knowledge.  
24 Q. When you're in attendance at a Board of

1 Supervisors meeting, do you take notes?  
2 A. No.  
3 Q. You don't have a laptop or anything that  
4 you put information into?  
5 A. No.  
6 Q. Obviously, when you're at the Board of  
7 Supervisors meetings, you're able to witness what  
8 the other Board members are doing; correct?  
9 A. Yes.  
10 Q. Do you notice any of them that take notes?  
11 A. I never have.  
12 Q. Anybody come with a laptop?  
13 A. No.  
14 Q. How about Mr. Gregan, does he come in with  
15 a laptop?  
16 A. No.  
17 Q. He takes hand notes and uses the tapes?  
18 A. Yes.  
19 Q. Anybody affiliated with the Township that  
20 you've noticed in meetings, other than Mr. Gregan,  
21 taking notes?  
22 A. No.  
23 Q. Anybody come in with a laptop that you've  
24 noticed?

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1 A. No.  
2 Q. Is it your understanding that a citizen or  
3 a citizens group can legally request the rezoning of  
4 someone else's property?  
5 MR. MAHONEY: Objection. Asks for a  
6 conclusion.  
7 You can answer, if you can.  
8 A. Anybody can ask -- legally can come in and  
9 ask. That's sort of the way the system works.  
10 Q. It's not limited to owners, as far as you  
11 know?  
12 A. No.  
13 Q. We talked about factors that are  
14 considered in various decisions.  
15 Is the community preference one of  
16 the factors that the Board of Supervisors considers  
17 in connection with their request for rezoning?  
18 A. Yes. In a request for rezoning, yes.  
19 Q. What way is that considered?  
20 A. Well, if the community has an input, we  
21 take it into consideration when making a zoning  
22 ordinance decision.  
23 Q. So if the community is for a particular  
24 rezoning, you would take that into consideration in

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1 a positive way for the rezoning?  
2 A. Sure.  
3 Q. And vice versa?  
4 A. Yes.  
5 Q. Did that happen in the DePaul rezoning?  
6 A. I did not consider it.  
7 Q. Okay. So, you, meaning William Rimel,  
8 III --  
9 A. Yes.  
10 Q. -- did not consider the community  
11 preferences when you voted to advertise the  
12 rezoning?  
13 A. That is correct.  
14 Q. Did you have an understanding about what  
15 that community preference was?  
16 A. Yes, I did.  
17 Q. What was your understanding?  
18 A. My understanding was that the community's  
19 preference would be to rezone it.  
20 Q. Were there any discussions in connection  
21 with the rezoning that you were present for relating  
22 to community preference?  
23 A. Not that I recall.  
24 Q. There could have been, but you just don't

1 A. Well, my view is, if I were Mr. DePaul or  
2 any owner of this property, I would view this report  
3 as a free \$60,000 land plan — you know, an  
4 opportunity to get benefit for myself, make a  
5 profit, and comply with my neighbors' and the  
6 Township's desires.

7 Q. I don't know if I asked you this when we  
8 talked about your employment.

9 Have you ever done any land  
10 development in your career?

11 A. No.

12 Q. If I showed you the final report, would  
13 you be able to tell me whether it was the final  
14 report or not?

15 A. There were so many interim reports, I  
16 couldn't tell for sure.

17 Q. This is the last topic for the day.

18 Here's the —

19 A. That looks like it's the power point.

20 Q. This is what I have.

21 A. All right. That's pretty much what I  
22 have.

23 Q. And I'm trying to figure out whether this  
24 is the final version or not. We haven't had a

1 chance to talk to Mr. Simone.

2 A Okay.

3 MR. MAHONEY: It's got on second page,  
4 these things.

5 MR. EINHORN: That's what is confusing me.

6 THE WITNESS: Yes.

7 MR. EINHORN: That as well as —

8 MR. MAHONEY: Off the record for a second.

9 (Whereupon, a discussion was held off  
10 the record.)

11 MR. EINHORN: I have no further questions  
12 for the witness.

13 I just do want to say for the record that  
14 there are documents that have not yet been  
15 produced relating to certain land development  
16 files. I think we may have an agreement. I'm  
17 not 100 percent sure yet.

18 There have also been some instructions not  
19 to answer during this deposition, and I would  
20 just like to reserve the right, if necessary,  
21 to call this witness back at some later date,  
22 as a result of those two items.

23 (Whereupon, the deposition was  
24 concluded at 4:45 p.m.)

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1 C E R T I F I C A T I O N

2 I, ROBIN M. VALENTINI, a Certified  
3 Shorthand Reporter, do hereby certify the  
4 foregoing to be a true and accurate  
5 transcript of my original stenographic  
6 notes taken at the time and place  
7 hereinbefore set forth.

8  
9  
10 ROBIN M. VALENTINI, CSR

11  
12 (The foregoing certification of  
13 this transcript does not apply to any  
14 reproduction of the same by any means,  
15 unless under the direct control and/or  
16 supervision of the certifying reporter.)  
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18  
19  
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22  
23  
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**EXHIBIT K**

1 IN THE UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF PENNSYLVANIA  
3  
4 HIGHWAY MATERIALS, INC. : CIVIL ACTION  
5 -vs- : NO. 02-3212  
6 WHITEHARSH TOWNSHIP, et al. :  
7  
8 April 18, 2003  
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10  
11 Deposition of ANN YOUNGLOVE, held at the  
12 WHITEHARSH TOWNSHIP BUILDING, located at  
13 616 East Germantown Pike, Lafayette Hill, Pennsylvania,  
14 commencing approximately at 10:05 a.m. on the above  
15 date, before Holly J. Cross, a Registered Professional  
16 Reporter and Notary Public for the State of  
17 Pennsylvania.  
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1 APPEARANCES:  
2 BALLARD SPAHR ANDREWS & INGERSOLL, LLP  
3 BY: WALTER M. EINHORN, JR., ESQUIRE  
4 1735 Market Street, 51st Floor  
5 Philadelphia, PA 19103  
6 Counsel for Plaintiff  
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8 DEASEY, MAHONEY & BENDER  
9 BY: HARRY G. MAHONEY, ESQUIRE  
10 1800 John F. Kennedy Boulevard  
11 Suite 1300  
12 Philadelphia, PA 19103  
13 Counsel for Defendants  
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15 ALSO PRESENT:  
16 Kristine Maciolek, Esquire  
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1  
2 ANN YOUNGLOVE, having been duly sworn, was  
3 examined and testified as follows:  
4  
5 MR. MAHONEY: For the record, I'd like  
6 the witness to read and sign the transcript.  
7 EXAMINATION  
8 BY MR. EINHORN:  
9 Q Ms. Younglove, do you know Jim Garrity?  
10 A Yes.  
11 Q How do you know Jim Garrity?  
12 A He appears periodically before the board of  
13 supervisors here in Whitmarsh representing developers.  
14 Q Land development applications?  
15 A Yes.  
16 Q Do you find Mr. Garrity to be generally  
17 knowledgeable about the land development process in  
18 Whitmarsh Township?  
19 A Yes.  
20 MR. EINHORN: Okay. Can you mark this,  
21 please?  
22 (Whereupon, Exhibit P-33 was marked  
23 for identification.)  
24 BY MR. EINHORN:

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1 those plans, I would have expected, would have either  
 2 been consistent with the rezoning that I thought was  
 3 proper for it or not. I guess in my mind they weren't  
 4 tied together. I was happy with the rezoning as it was  
 5 proposed.  
 6 Q Did you have any discussions prior to this  
 7 meeting about the timing of the rezoning?  
 8 A Not that I recall.  
 9 Q Do you recall anyone calling you or discussing  
 10 with you the fact that Mr. DePaul had filed plans in  
 11 September of 2001?  
 12 A I don't recall.  
 13 Q Is it your testimony that it's just coincidence  
 14 that days after Mr. DePaul filed the plans you folks  
 15 voted to advertise his properties for rezoning?  
 16 MR. MAHONEY: Object to the form of the  
 17 question.  
 18 Go ahead.  
 19 THE WITNESS: Can you restate the  
 20 question or read it back to me?  
 21 MR. EINHORN: Sure.  
 22 (The record was read by the  
 23 reporter.)  
 24 THE WITNESS: Coincidence may not be the

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1 proper term. I mean, clearly something was happening  
 2 with this property. I think we needed to focus on what  
 3 was happening with the property. Mr. DePaul came with a  
 4 sketch plan, I believe, as early as Memorial Day.  
 5 Q 2001?  
 6 A 2001, so it wasn't, you know, just  
 7 happenstance. It also was not -- I think coincidence is  
 8 too strong of a word.  
 9 Q Well, then, what role did the filing of  
 10 Mr. DePaul's plans play in this decision?  
 11 A I don't know that it played any role in it.  
 12 Q So what's the right word other than  
 13 coincidence?  
 14 A I don't know that there is a word. Coincidence  
 15 was your word. I don't know that there was -- that I  
 16 would characterize it one way or another.  
 17 Q What was the disadvantage to the board of  
 18 waiting to get the land use planner's thoughts on the  
 19 uses and alternatives for the property and his thoughts  
 20 on the ordinance proposed by the neighbors?  
 21 MR. MAHONEY: Object to the form of the  
 22 question.  
 23 Go ahead.  
 24 THE WITNESS: I'm not sure that there

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1 was a need to wait.  
 2 BY MR. EINHORN:  
 3 Q Was the land use planner doing this study -- he  
 4 wasn't doing it for free, was it?  
 5 A No.  
 6 Q The board was going to pay for the study?  
 7 A Correct.  
 8 Q Do you know how much money the board has paid  
 9 the land use planner for this study?  
 10 A Do I know how much we've paid? I don't know  
 11 specifically how much we've paid.  
 12 Q Okay. Well, why would the board -- let's focus  
 13 on you personally. Why would you vote for a rezoning at  
 14 a point in time when you have not received the input  
 15 from a planner whose specific duty it was to determine  
 16 appropriate uses and give you alternatives for the  
 17 property that you were rezoning?  
 18 MR. MAHONEY: Object to the form of the  
 19 question. She testified already about other reasons for  
 20 hiring the planner.  
 21 BY MR. EINHORN:  
 22 Q You can answer it.  
 23 A As I said, I was in favor of rezoning it to  
 24 residential, ultimate residential. Again, my

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1 expectation was not that the planner's job was to be  
 2 focusing on rezoning; and my expectation was it was to  
 3 focus on alternative designs for the property.  
 4 Q Alternative uses.  
 5 A Uses, sorry, for the property.  
 6 Q Okay. So -- are you finished? I'm sorry. I  
 7 didn't mean to interrupt.  
 8 A I mean, I'm not saying anything different that  
 9 I didn't say two questions ago.  
 10 Q So the land use planner is hired to give input  
 11 as to alternative uses for the properties; correct?  
 12 A Correct.  
 13 Q And the land use planner was hired in part to  
 14 provide input on the ordinance proposed by the  
 15 neighbors; correct?  
 16 A Correct, part of it.  
 17 Q I guess I just can't figure it out, then.  
 18 What's the point of rezoning -- what's the point of  
 19 hiring a land use planner if you're rezoning the  
 20 property before getting his input?  
 21 MR. MAHONEY: Objection; asked and  
 22 answered.  
 23 Go ahead and answer it again, if you can.  
 24 THE WITNESS: I don't see them as

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1 inconsistent.  
2 BY MR. EINHORN:  
3 Q Okay. Was there any advantage to the board in  
4 acting on September 20th to advertise the rezoning as  
5 opposed to waiting for the land use planner's report?  
6 A I don't know there was an advantage or a  
7 disadvantage. I think it was the appropriate thing to  
8 do at the time.  
9 Q Now, do you know what type of density was  
10 proposed by the neighbors for the property?  
11 A No, I don't.  
12 Q You don't recall that it was one-acre  
13 residential --  
14 A Oh, sorry. I believe it was two acres.  
15 Q Residential?  
16 A Residential.  
17 MR. MAHONEY: Is that contained in the  
18 original petition, which is part of P-1? I just think  
19 we should be precise.  
20 MR. EINHORN: That's fine with me.  
21 Actually, I think it just refers to another zoning  
22 classification.  
23 MR. MAHONEY: There, triple A.  
24 THE WITNESS: Okay.

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1 MR. MAHONEY: Do you know what density  
2 that provides for?  
3 THE WITNESS: I want to say two acres,  
4 but --  
5 BY MR. EINHORN:  
6 Q All right. We're asking for your recollection  
7 today. It might have been two; it might have been one.  
8 A It's residential.  
9 Q It's residential. Now, why did the board  
10 decide to pick that density as opposed to some other  
11 zoning classification?  
12 A Well, again, the area that DePaul -- that  
13 Highway Materials' property is located in, that zoning  
14 classification, whether it be one or two acres, is  
15 consistent with the surrounding area.  
16 Q It's your testimony again that there were no  
17 discussions outside of a public meeting about this whole  
18 process?  
19 A Not that I recall.  
20 Q I gather that you are not able to run for a  
21 third term consecutively?  
22 A I am not able to run for a third term, no.  
23 Q Now, do you know if you're ever able to run for  
24 a third term? In other words, after waiting some period

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1 of time?  
2 A My understanding is I could wait for some  
3 period of time and run for another term.  
4 Q Do you know what that period of time is?  
5 A No, I don't.  
6 Q But, in any event, you're not going to be able  
7 to run in this November's election?  
8 A I am not able to run, no.  
9 Q Now, do you understand that the legal effect of  
10 a rezoning where there is a preexisting plan is that the  
11 preexisting plan must be determined by the previous  
12 zoning?  
13 A My understanding is that a plan that is  
14 submitted when a piece of property is zoned a particular  
15 way is subject to that zoning.  
16 Q And that's even if there is a rezoning of the  
17 property before the plans are decided?  
18 A I believe that's the case.  
19 MR. MAHONEY: That is: plan filed,  
20 rezoning, decision; the decision has to be on the zoning  
21 in effect at the time the plan is filed.  
22 THE WITNESS: That's my understanding.  
23 BY MR. EINHORN:  
24 Q Okay. So it's your understanding that because

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1 Mr. DePaul had filed plans prior to the rezoning, his  
2 plans would be subject to the old zoning?  
3 A My understanding is that his plans would be  
4 subject to the old zoning.  
5 Q And you also understood that if those plans  
6 were denied that any future plans submitted after the  
7 rezoning would be subject to the new zoning; correct?  
8 A Any plans that would be proposed after the new  
9 zoning would be subject to the new zoning.  
10 Q Other than Mr. DePaul's project, do you recall  
11 any other land development plans being denied in your  
12 terms as a board supervisor?  
13 A I can't say whether any were denied or not. My  
14 recall is they were not, but I would not tell you that  
15 over any span -- seven-and-a-half-year span.  
16 Q But you don't recall any in the seven and a  
17 half years?  
18 A I can't recall any at this time.  
19 Q Now, would it be fair to say that there was a  
20 high level of community interest in the development of  
21 the DePaul properties?  
22 A I don't know if "high" is the right  
23 characterization, but there was interest in the DePaul  
24 property.



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1 Q You don't think these plans were treated any  
2 differently than the Hill's plans?  
3 A I would not expect so.  
4 Q I'm asking you were they.  
5 A I don't know. I can't comment. I don't have a  
6 fresh recollection of the Hill.  
7 Q The Hill is still an on ongoing project, is it  
8 not?  
9 A I think so.  
10 MR. EINHORN: Okay. No further  
11 questions.  
12 MR. MAHONEY: Okay.  
13 (The deposition concluded at  
14 approximately 2:35 p.m.)  
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CERTIFICATION

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2  
3 I, Holly J. Cross, a Registered Professional  
4 Reporter, do hereby certify that the proceedings,  
5 evidence, and objections upon the deposition of  
6 ANN YOUNGLOVE are contained fully and accurately in the  
7 stenographic notes taken by me upon the foregoing matter  
8 on April 18, 2003 and that this is a true and correct  
9 transcript of same.  
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HOLLY J. CROSS  
Registered Professional  
Reporter

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WITNESS CERTIFICATION

1  
2  
3 I hereby acknowledge that I have read the  
4 foregoing transcript of my deposition given on  
5 April 18, 2003 and that it is a true, correct and  
6 complete transcript of the answers given by me to the  
7 questions propounded, to the best of my knowledge,  
8 recollection and belief, except for the list of  
9 corrections, if any, noted on the below Errata Sheet.  
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ANN YOUNGLOVE



## **EXHIBIT L**

1 IN THE UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF PENNSYLVANIA  
3  
4 HIGHWAY MATERIALS, INC. : CIVIL ACTION  
5 -vs- : NO. 02-3212  
6 WHITEMARSH TOWNSHIP, et al. :  
7  
8 March 26, 2003  
9  
10  
11 Deposition of RONALD DEROSA, held in the  
12 Law Offices of BALLARD SPAHR ANDREWS & INGERSOLL, LLP,  
13 located at 1735 Market Street, 51st Floor, Philadelphia,  
14 Pennsylvania, commencing approximately at 10:20 a.m. on  
15 the above date, before Holly J. Cross, a Registered  
16 Professional Reporter and Notary Public for the State of  
17 Pennsylvania.  
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1 APPEARANCES:  
2 BALLARD SPAHR ANDREWS & INGERSOLL, LLP  
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11 Suite 1300  
12 Philadelphia, PA 19103  
13 Counsel for Defendants  
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15 ALSO PRESENT:  
16 Kristine Maciolek, Esquire  
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1  
2 RONALD DEROSA, having been duly sworn, was  
3 examined and testified as follows:  
4  
5 MR. EINHORN: I don't think there really  
6 are any stipulations. We'll just proceed pursuant to  
7 the Federal Rules of Civil Procedure.  
8 EXAMINATION  
9 BY MR. EINHORN:

10 Q Good morning, Mr. DeRosa. My name is Walt  
11 Einhorn. We just met a minute or two ago. I'm here as  
12 an attorney for Highway Materials, Inc. in a lawsuit  
13 entitled Highway Materials, Inc. versus Whitemarsh  
14 Township, et al. You are a defendant in that lawsuit.  
15 I'm here today to ask you a series of questions.  
16 What I'll ask you to do is to first wait until  
17 I'm finished with my question before you start your  
18 answer, and I will try to do the same courtesy for you;  
19 that is, let you finish your answer before I start my  
20 next question.  
21 Do we have an agreement on that?  
22 A Sure.  
23 Q Okay. The next thing, which you've already  
24 done, is you have to answer things out loud. The court

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1 officially filed preliminary plans.  
 2 Did you have any discussions with anyone about  
 3 those plans?  
 4 A Not that I recall.  
 5 Q So it's your testimony that if I wanted to see  
 6 any comment you made about those plans, I could get  
 7 those by just looking at public meeting records?  
 8 A Yes.  
 9 Q You never discussed these plans in executive  
 10 session?  
 11 A Not that I recall.  
 12 Q It's true, sir, that eventually these plans  
 13 were denied; right? The plans we're talking about were  
 14 eventually denied?  
 15 MR. MAHONEY: Which ones? The September  
 16 10th?  
 17 MR. EINHORN: Yeah.  
 18 MR. MAHONEY: Or revisions thereof?  
 19 MR. EINHORN: Right.  
 20 THE WITNESS: Yes.  
 21 BY MR. EINHORN:  
 22 Q Okay. Now, maybe you -- Mr. Mahoney makes a  
 23 good point. When I'm referring to the September 10th  
 24 plans and discussions you may have had about them, I'm

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1 including in that question, at least I am now, any  
 2 revisions thereto.  
 3 A Okay.  
 4 Q Okay. Did you have any discussions -- now with  
 5 that revised question -- about the plans or any  
 6 revisions thereto?  
 7 A No, not that I can recall.  
 8 Q It's true, sir, that in the time in which  
 9 you've served on the board there was only one set of  
 10 land development plans ever denied; correct?  
 11 A In the time I've served on the board, yes.  
 12 Q And they were the DePaul plans; correct?  
 13 A Yes.  
 14 Q And you're telling us today that although they  
 15 were the only ones ever denied in the township you don't  
 16 recall any discussions with anyone about them?  
 17 MR. MAHONEY: Outside of a public  
 18 meeting?  
 19 MR. EINHORN: Outside of a public  
 20 meeting.  
 21 THE WITNESS: No.  
 22 BY MR. EINHORN:  
 23 Q You had discussions outside a public meeting or  
 24 you did not?

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1 A I don't recall having discussions outside of a  
 2 public meeting.  
 3 Q Okay. Did you have any discussions outside of  
 4 a public meeting about the plans or revisions thereto  
 5 with Mr. Zarko?  
 6 A Not that I recall.  
 7 Q How about with Mr. Gregan?  
 8 A Not that I recall.  
 9 Q Don Cohan?  
 10 A No, I've never spoken to Don Cohan.  
 11 Q Ross Weiss?  
 12 MR. MAHONEY: Objection.  
 13 BY MR. EINHORN:  
 14 Q Do you recall any discussions about the plans  
 15 with Mr. Weiss?  
 16 MR. MAHONEY: Objection. Direct the  
 17 witness not to answer.  
 18 MR. EINHORN: Okay. Again, we  
 19 apparently have a disagreement as to the breadth of the  
 20 attorney-client privilege, but I'll move on.  
 21 BY MR. EINHORN:  
 22 Q Anyone at the Kaplin firm, did you have any  
 23 discussions with them about the plans or revisions  
 24 thereto outside of a public meeting?

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1 A No.  
 2 Q All right. Let's go to P-6. These are the  
 3 minutes of the September 20th board meeting; correct?  
 4 A Yes.  
 5 Q September 20th, 2001. Is it fair to say,  
 6 looking at the first page there, that at this meeting  
 7 the supervisors authorized the advertising of the  
 8 rezoning ordinance?  
 9 A Yes.  
 10 Q And that's the same ordinance, at least in  
 11 substantially the same form, as that proposed by the  
 12 neighbors' group; right?  
 13 A Yes.  
 14 Q Now, you'll agree with me that the action that  
 15 was taken on September 20th, 2001 seems to be a change  
 16 in approach from the process that was being discussed  
 17 just two months before then; correct?  
 18 MR. MAHONEY: Object to the form of the  
 19 question.  
 20 Go ahead and answer it, if you can.  
 21 THE WITNESS: A change in the process?  
 22 BY MR. EINHORN:  
 23 Q No, a change in the approach, I said, from the  
 24 process that had been --

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1 A No.  
 2 Q No? Okay. Well, at this point had the land  
 3 use planner completed his study?  
 4 A No, I don't believe so.  
 5 Q In fact, you hadn't even hired the land use  
 6 planner when you authorized this, had you?  
 7 A I don't recall when we actually voted for the  
 8 land use planner. I'm sure it's in one of the meetings.  
 9 Q Sir, why is it that in July of 2001 the board  
 10 is promising a process in which the planner is the only  
 11 one, pursuant to your testimony, to evaluate the  
 12 properties and in September 2001 you're now advertising  
 13 them for rezoning?  
 14 A The question was why?  
 15 Q Yeah, can you tell me what changed?  
 16 A Nothing changed.  
 17 Q Nothing changed?  
 18 A With the exception that we had a request from  
 19 residents to rezone the property to a use that was more  
 20 appropriate than the existing zoning.  
 21 Q Do you remember testifying a few minutes ago  
 22 that the ordinance that had been proposed by the  
 23 residents was forwarded to the land use planner for  
 24 evaluation? Do you remember that testimony?

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1 A The RFP says that we will forward it to the  
 2 land use planner.  
 3 Q Do you remember the testimony about why the  
 4 land use planner was important in the process?  
 5 A To give us professional opinions and advice,  
 6 yes.  
 7 Q Why didn't you wait for the land use planner?  
 8 MR. MAHONEY: Waiting for the land use  
 9 planner to do what?  
 10 MR. EINHORN: To do his work.  
 11 THE WITNESS: There was no need to wait  
 12 for the land use planner to do his work to rezone the  
 13 property now. We have the option of rezoning it again  
 14 at a future time if the land use planner comes up with  
 15 something more appropriate.  
 16 BY MR. EINHORN:  
 17 Q So you viewed the zoning that was eventually  
 18 passed to be a temporary measure?  
 19 A I wouldn't say temporary, the zoning is  
 20 necessarily temporary. I viewed it as a better  
 21 alternative than the current zoning and necessary to get  
 22 into place.  
 23 Q Sir, why did you have to do this on  
 24 September 20th?

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1 MR. MAHONEY: The advertising?  
 2 MR. EINHORN: Yeah.  
 3 BY MR. EINHORN:  
 4 Q Why did the board take this action on  
 5 September 20th?  
 6 A The ordinance had been requested. It had been  
 7 reviewed by staff. It was deemed advertisable, and it  
 8 was necessary to get the zoning issue taken care of.  
 9 Q Why was that necessary?  
 10 A Because the existing zoning was not appropriate  
 11 for the property in the area where it's located.  
 12 Q And why was it necessary to do that starting on  
 13 September 20, 2001?  
 14 A I don't know that anyone said it was necessary.  
 15 It was decided to do it.  
 16 Q And why was it decided to do it on September  
 17 2001?  
 18 A Because it was appropriate to do.  
 19 Q Well, we're going around in circles here. Why  
 20 do you believe it was appropriate?  
 21 A I mean, I don't understand your question.  
 22 Q Well, sir, you are, maybe unintentionally,  
 23 conflating two concepts: the rezoning and the timing of  
 24 the rezoning.

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1 MR. MAHONEY: Excuse me. Is there a  
 2 question, or are you just commenting on his answer?  
 3 BY MR. EINHORN:  
 4 Q I'm asking you about the timing of the  
 5 rezoning. Why did the rezoning have to commence on  
 6 September 20th, 2001?  
 7 MR. MAHONEY: I think he already  
 8 answered that question. We didn't have to. We just  
 9 did.  
 10 THE WITNESS: We just did.  
 11 BY MR. EINHORN:  
 12 Q You just did it?  
 13 A Yeah.  
 14 Q There's no reason why you picked  
 15 September 20th?  
 16 A There is no reason, specific reason, in my mind  
 17 why we picked September 20th, no.  
 18 Q Who was up for election in November of 2001, do  
 19 you remember? Is it Mr. Kramer and Ms. Graf possibly?  
 20 A In November 2000 -- September 2001?  
 21 Q In November of 2001.  
 22 A Mr. Kramer.  
 23 Q And Ms. Graf?  
 24 A No, she had already been unelected.

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1 That's me.  
2 Q And the manager is part-time?  
3 A The manager is part-time.  
4 MR. EINHORN: All right. That's all I  
5 have for the time being.  
6 Again, as I said at the end of the last  
7 deposition, depending on future motions and review of  
8 the SALDO files, I'll at least reserve the right to call  
9 you back, if necessary.  
10 MR. MAHONEY: We don't necessarily agree  
11 with that, but we understand your statement.  
12 (The deposition concluded at  
13 approximately 3:50 p.m.)  
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C E R T I F I C A T I O N

1  
2  
3 I, Holly J. Cross, a Registered Professional  
4 Reporter, do hereby certify that the proceedings,  
5 evidence, and objections upon the deposition of  
6 RONALD DEROSA are contained fully and accurately in the  
7 stenographic notes taken by me upon the foregoing matter  
8 on March 26, 2003 and that this is a true and correct  
9 transcript of same.  
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\_\_\_\_\_  
HOLLY J. CROSS  
Registered Professional  
Reporter

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W I T N E S S C E R T I F I C A T I O N

1  
2  
3 I hereby acknowledge that I have read the  
4 foregoing transcript of my deposition given on  
5 March 26, 2003 and that it is a true, correct and  
6 complete transcript of the answers given by me to the  
7 questions propounded, to the best of my knowledge,  
8 recollection and belief, except for the list of  
9 corrections, if any, noted on the below Errata Sheet.  
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\_\_\_\_\_  
RONALD DEROSA  
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